

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

MELVIN HEBERT, #M2808

PETITIONER

v.

CAUSE NO. 2:15-CV-137-KS-JCG

MISSISSIPPI DEPT. OF CORRECTIONS

RESPONDENT

ORDER

This matter is before the Court on the Report and Recommendation [17] of United States Magistrate Judge John C. Gargiulo (the “Magistrate”), filed on August 29, 2016, in which he recommends that the Court dismiss with prejudice the Petition for Writ of Habeas Corpus (“Petition”) [1] filed by Petitioner Melvin Hebert (“Petitioner”). After reviewing the record, the Objection [18], and the applicable law, the Court finds that the Report and Recommendation [17] is both factually and legally accurate, and that it should be adopted as the opinion of the Court.

As required by 28 U.S.C. § 636(b)(1), the Court conducts an independent review of the entire record and a *de novo* review of the matters raised by parties’ objections.

Petitioner does not address any portion of the Magistrate’s Report and Recommendation [17] in his Objection [18]. The only arguments Petitioner makes go to the merits of his Petition [1]. However, the Magistrate found that the Petition [1] was procedurally barred from federal habeas review and did not reach its merits. As such, the Court does not find that Petitioner’s arguments have any merit, and his Objection [18] will be **overruled**. After a thorough review of the Magistrate’s Report and Recommendation [17], the record, and the applicable law, the Court agrees that the Petition [1] is procedurally barred and should be **dismissed**.

IT IS THEREFORE ORDERED AND ADJUDGED that Petitioner’s Objection [18] is

overruled. After reviewing the record, the Court concludes that the Magistrate Judge's Report and Recommendation [17] is an accurate statement and analysis of the law and facts. The Court **adopts** it as the opinion of the Court and **dismisses with prejudice** the Petition [1].

SO ORDERED AND ADJUDGED this 25th day of October, 2016.

s/Keith Starrett
UNITED STATES DISTRICT JUDGE